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TRADEMARK LAW OFFICE 102
Serial Number: 75/925999
Mark: ECOPOD

10-102

Please Place on Upper Right Corner
of Response to Office Action ONLY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of
Delta Design Development Limited

Serial No.: 75/925,999

Filed: February 24, 2000

For: ECOPOD

Trademark Examining Attorney
John M. Gartner

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

TRADEMARK LAW OFFICE 102

St. Louis, Missouri

August 28, 2001

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RESPONSE TO OFFICE ACTION UNDER 37 C.F.R. § 2.62

Madam:

This is in response to the Office Action No. 2 dated February 28, 2001.

REMARKS

The Examining Attorney has refused registration of Applicant's trademark, ECOPOD for "furniture, namely, corrugated fibreboard, plastic, steel, and compression board furniture, parts, and partitions capable of being configured and assembled in Class 20 on the ground of confusing similarity of the trademark, POD, for "office furniture" in Class 20 (Registration No. 1,805,305). In light of the following, reconsideration of the final refusal to register is respectfully requested.

I. ANALYSIS OF THE LIKELIHOOD OF CONFUSION

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I. ANALYSIS OF THE LIKELIHOOD OF CONFUSION

The initial portion of the Examining Attorney's analysis refers to the *duPont* factors, regarding the similarity of appearance, sound, meaning, and commercial impression of the two marks. *In re E. I. duPont de Nemours & Co.*, 476 F. 2d 1357, 177 U.S.P.Q. 563 (C.C.P.A. 1973).

II. SIMILARITY OF THE MARKS

The Examining Attorney contends that the literal portions of Applicant's mark and that of the Registrant are similar in appearance, sound, connotation, and commercial impression, and, as a result, there is a likelihood of confusion as to the origin of goods. The Examining Attorney generally contends that the literal portions of Applicant's and Registrant's mark are similar in appearance, sound, connotation, and commercial impression since they both contain the word, POD.

A. Appearance

Applicant concurs with the Examining Attorney that similarity in appearance is one consideration in determining whether there is a likelihood of confusion. The cases cited by the Examiner in support of the assertion that marks with additional, deleted, or substituted *letters* may still be considered confusingly similar do not reflect the circumstances at issue in this case. For example, *Weiss Associates, Inc. v. HRL Associates, Inc.*, 902 F.2d 1546, 14 USPQ2d 1840 (Fed. Cir. 1990) relates to lettering, and not the addition of words. *Id.* at 1841 ("It is especially hard to distinguish between TMS and TMM when the marks only differ by the last letter."). Similarly, the other two cases cited by the Examiner reference trademarks that have transposed letters that have or letters that were otherwise shifted within a word. In contrast, Applicant

combines two words, where one of the terms is word, POD. Applicant's mark consists of two distinct words (not lettering) and does not merely transpose lettering to form a different word.

Regarding the addition of a word, the Examining Attorney states that the addition of a term is not sufficient to overcome a likelihood of confusion. Again, the cases cited by the Examining Attorney do not relate to the issue in this case. For example, in *In re El Torito Restaurants Inc.*, 9 USPQ2d 2002 (TTAB 1988), the TTAB addressed the issues relating to the characteristics of the added term. *Id.* at 2004 ("The mark of Applicant consists of Registrant's entire mark, to which a descriptive (and disclaimed) word has been added.") In contrast, Applicant's addition of ECO is not disclaimed in the mark. ("The purpose of a disclaimer is to permit the registration of a mark which is registrable as a whole but which contains matter which would not be registrable standing alone, without creating a false impression of the extent of the Registrant's right with respect to certain individual elements in the mark." TMEP 1213.)

Instead, (in cases more recent than those cited by the Examiner), courts have found that the addition of a word may distinguish a mark from another registered trademark. See *W.L. Gore v. Johnson & Johnson*, 36 USPQ2d 1552 (D. Del. 1995) (Glide and Easy Slide held not to be confusingly similar); see also *Cortex Corp. v. W.L. Gore & Assocs. Inc.*, 28 USPQ2d 1152 (Fed. Cir. 1993) (finding "Cortex" and "Gore-Tex" dissimilar in appearance). In *Sunquest Information Systems, Inc. v. Park City Solutions, Inc.*, the district court, stated, "what all of these rules [look at the two marks 'as a whole'] boil down to is 'really nothing more than a subjective 'eyeball' test.' " *Sunquest Info. Sys., Inc.*, 130 F. Supp.2d 680, 692 (W.D.Pa. 2000); see also McCarthy on Trademarks and Unfair Competition § 23:25.

Similar to *W.L. Gore*, in this case, the marks are different in appearance for numerous reasons. See *W.L. Gore*, 36 USPQ2d at 1555. Applicant's mark consists of two one-syllable

words; Registrant's mark consists of (one) one-syllable word. Also, as shown in Exhibit A, Registrant's POD mark is used in a square with font that is significantly different from Applicant's font lettering. In addition, the first word of the Applicant's mark starts with an entirely different letter than the word that comprises Registrant's mark. Therefore, the numerous differences between the marks themselves (e.g., two words instead of one) and the shapes of the marks show that the marks are different in appearance.

B. Sound

Applicant's mark does not sound the same as Registrant's mark. The addition of the word ECO in combination with the word POD creates a word where a person enunciates, at least three times, the "hard" sounds of each consonant in the trademark. See generally *W.L. Gore*, 36 USPQ2d at 1556. In addition, as mentioned previously, Applicant's mark has two syllables compared to Registrant's one word with one syllable. The break in speech of a person enunciating this word makes the two marks different in sound.

Therefore, the Examining Attorney's assertion, "The addition of the term ECO to POD does not change the appearance or pronunciation of POD as it appears in both marks" is simply incorrect. The mark must be considered as a whole, as acknowledged by the Examiner later in the Office Action and confirmed by the law. See *Opryland USA Inc. v. The Great American Music Show*, 23 USPQ2d 1471, 1473 (Fed. Cir. 1992).

Applicant's mark is different in appearance from Registrant's mark since Applicant's mark comprises two words and not one; Applicant's mark has different font; and Applicant's mark begins with an entirely different word, which is not a word disclaimed or a word that is otherwise considered descriptive. Unlike the cases cited by the Examining Attorney, Applicant's

mark features a unique, suggestive word that is not disclaimed. The difference in pronunciation due to the addition of the second word also distinguishes the two marks.

C. Connotation

Considering the marks as a whole, the Examining Attorney states that the POD portion of the mark is the dominant portion of each trademark. While "it is impossible to make any generalized statement as to whether the beginning or end of a mark is more important when one or the other is used by another seller,...some cases indicate that the first word ... in a mark is always the dominant part." See McCarthy on Trademarks and Unfair Competition, § 23:45; *Coca-Cola Company v. Carlisle Bottling Works*, 43 F. 2d 101 (E.D. Ky 1929), *aff'd.*, 43 F. 2d 119 (6th Cir. 1930); *Presto Products, Inc. v. Nice-Pak Products, Inc.*, 9 U.S.P.Q.2d 1895 (T.T.A.B. 1988) ("[I]t is in the first part of a mark which is most likely to be impressed upon the mind of a purchaser and remembered.") (*KID-WIPES* held confusingly similar to *KID STUFF* both for baby wipes).

It is also significant to note that courts have clearly stated that the disclaimed segment of a mark is not the dominant portion of the mark. In this case, ECO is not disclaimed. Therefore, the cases cited by the Examining Attorney highlighting "dominant" portions of trademarks are irrelevant since they relate to marks where portions of the mark are disclaimed. Furthermore, contrary to the Examining Attorney's conclusion, ECO could be considered the dominant portion of Registrant's mark.

Applicant's various interpretations of POD as well as ECO show the suggestive nature of the trademark. A term is suggestive if it requires imagination, thought, and perception to reach a conclusion as to the nature of the goods. *Stix Products, Inc. v. United Merchants & Mfrs., Inc.*,

295 F. Supp. 479, 160 U.S.P.Q. 777 (S.D.N.Y. 1968); see McCarthy's on Trademarks and Unfair Competition § 11:67 and cases cited therein.

The Examining Attorney states, "POD is not descriptive of furniture." Regarding the suggestive nature of POD, however, the Examining Attorney states two conflicting assertions. In one instance, the Examiner states that POD is suggestive of furniture since it is suggestive of "something resembling a pod, as in compactness;" yet two sentences later the Examiner states, "POD is not...even strongly suggestive of furniture." However, Applicant's mark must be considered as a whole. Applicant's mark is *not* POD; it is ECOPOD.

Considering the mark as a whole, the analysis must involve the suggestive characteristics of ECO in combination with POD.

The Examiner states that ECO creates, "a recognizable meaning of relating that word to the environment." Applicant's previous Response to Office Action No. 1 addresses the *numerous* connotations of ECO: ECO may suggest something that is "economical," for example. Considering the assertion set forth by the Examiner that ECO relates to ecology, further analysis of this word only provides additional support that ECOPOD is a suggestive mark. Ecology is defined, in part, as, "the science of the relationships between organisms and their environments." (See attached Exhibit B from the American Heritage dictionary of the English Language, 3d ed.).

The Examiner states, "the addition of ECO to POD merely reinforces the image of 'something resembling a pod, as in compactness' by stressing the 'natural habitat' connotation of the term, as opposed to the less ecological use of the term as a housing for machine guns or engines." (It is unclear to Applicant how machine guns or engines relate in any way to the analysis between ECOPOD and POD.) The Examining Attorney contradicts himself in this statement. It is agreed that POD is not descriptive of furniture. Therefore, the furniture, parts, or

partitions used in connection with Applicant's goods do not describe a pod. Applicant's mark is suggestive of furniture, which is configured or assembled, and such furniture is manufactured from materials that are relatively cost-effective for most budgets: corrugated fibreboard, plastic, steel, and compression board. Therefore, a person using some element of his or her imagination could derive the goods associated with ECOPOD to be goods that are either *economical* or *ecologically sound* (since they could be made from recycled products, i.e., corrugated fibreboard, steel, and compression board).

Considering the mark as a whole, the different interpretations of ECO only further show the strength of the mark in considering the addition of POD to comprise Applicant's mark. As already agreed by both parties, POD is not descriptive of furniture and these words which require an active imagination to interpret, only show that Applicant's mark, ECOPOD, is a strongly suggestive trademark.

Therefore, ECO does not modify POD. POD is not the dominant feature of Applicant's mark, particularly in light of the highly suggestive character of the combined elements comprising Applicant's mark. The difference between POD and ECOPOD is not "merely a peripheral difference;" the difference between the two marks is significant.

D. Commercial Impression

The Examining Attorney presumptively concluded the marks are confusingly similar in commercial impression. The Examiner cites cases, again, where portions of the mark have been disclaimed. No portion of either mark has been disclaimed in this case. The Examining Attorney states two "exceptions" to a rule, where the rule is not clearly set forth in the Office Action.

The Federal Circuit has stated that the “more important fact for resolving the issue of likelihood of confusion...is the dissimilarity in commercial impression between the marks.” *Champagne Louis Roederer S.A. v. Delicato Vineyards*, 47 USPQ2d 1459, 1461 (Fed. Cir. 1998) citing *Keebler Co. v. Murray Bakery Prods.*, 866 F.2d 1386, 1388 9 USPQ2d 1736, 1739 (Fed. Cir. 1989). The mark must be considered as a whole, as acknowledged by the Examiner later in the Office Action and confirmed by the law. See *Opryland USA Inc. v. The Great American Music Show*, 23 USPQ2d 1471, 1473 (Fed. Cir. 1992) quoting *Estate of P.D. Beckwith, Inc. v. Commissioner of Patents*, 252 U.S. 538, 545-46 (1920) (“The commercial impression of a trademark is derived from it as a whole, not from its elements separated and considered in detail.”).

Again, the Examining Attorney parses Applicant’s trademark into two portions, stating that ECO merely modifies POD and suggests a type of POD. This is wholly confusing to Applicant in that it is agreed that POD is not descriptive of furniture. Despite this understanding, that POD is not descriptive, the Examiner further asserts that POD conveys a sense of “pod-like” furniture. Again, the definition or description of “pod-like” furniture is unclear.

Analyzing the commercial impression of the marks as a whole, the furniture associated with the ECOPOD mark, as shown in the specimens submitted in Applicant’s response dated December 1, 2000, is furniture that must be assembled and configured. The relevant class of purchasers of this furniture will probably be on some type of pre-determined budget. A purchaser could afford to be an “impulse” buyer of Applicant’s furniture, considering the configuration and assembly required and the materials used to comprise the furniture. See *In re Wilson*, 57 USPQ2d 1863, 1865 (TTAB Jan. 19, 2001) (analyzing “ ‘the similarity or dissimilarity of the established and likely-to-continue trade channels for Applicant’s and

Registrant's respective goods, under the third *duPont* evidentiary factor, and 'the conditions under which and buyer to whom sales are made,' i.e., 'impulse' vs. careful, sophisticated purchasing").

In contrast, the description of Registrant's mark is simply, "office furniture." Again, in contrast, and as shown by the specimens submitted previously, Applicant's furniture comprises any of the following: coffee tables, filing cabinets, desks, beds, seating arrangements, and entertainment centers. Moreover, the materials with which this furniture is made comprise corrugated fibreboard, plastic, steel, and compression board. As such, furniture made with these unique materials attracts unique buyers. This relevant class of purchasers will not be seeking ordinary "office furniture," but a more distinctive type of furniture.

As shown by Exhibit C enclosed, the owner of Registration No. 1, 805,305 states, "advanced computer furniture" in its logo. This characteristic of the "office furniture" associated with Registrant's mark further highlights the difference in commercial impression between the two marks. A person seeking "advanced" office furniture will *not* be the same purchaser of Applicant's goods. The purchaser of Registrant's goods will be seeking a product that likely entails some feature or characteristic, which makes the particular item of office furniture "advanced," which is in contrast to Applicant's goods, which must be configured and assembled to be functional as furniture.

In addition to "advanced" furniture, Registrant appears to be selling furniture limited to use either with or for computers. As stated previously, the furniture associated with Applicant's trademark has a variety of uses or functions. Therefore, a purchaser of *advanced computer* furniture will likely be the "careful, sophisticated" purchaser referenced in *In re Wilson*. The

purchaser of Applicant's goods may have the luxury of purchasing *any type* of furniture as an impulse.

Therefore, the commercial impression of such advanced computer furniture is vastly different from the commercial impression of parts and partitions of furniture made of corrugated fibreboard, plastic, steel, and compression board that must be assembled and configured to function as furniture.

III. SIMILARITY OF THE GOODS IN TRADE CHANNELS

The Examining Attorney contends that the identification of Applicant's goods is very broad, and, therefore, encompasses all goods of the type described, including those in the Registrant's more specific identification. This statement seems to have been made without consideration of the amendment to Applicant's goods. In this case *Registrant* has a very broad identification of goods, which is simply "office furniture." Applicant's description of its goods is "furniture, namely, corrugated fibreboard, plastic, steel and compression board furniture, parts and partitions capable of being configured and assembled."

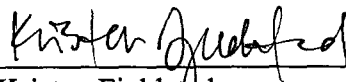
Evidence that the goods, as identified in the respective application (and registration), are the types of goods that would be expected to move in different trade channels or be sold to different classes of purchasers may be material and relevant to likelihood of confusion. See *David Crystal, Inc. v. Soo Valley Company*, 471 F.2d 1245, 176 USPQ 326 (CCPA 1973). It may be sufficient for a finding of likelihood of confusion that the respective goods are related in some viable manner, and/or that the conditions surrounding their marketing are such that they would be encountered by the same persons under circumstances that could create the mistaken belief that the goods emanate from or are in some way associated with the same source. *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785 (TTAB 1993).

The Examining Attorney contends that the "furniture" portion of each mark is necessarily the connection that links to the goods associated with each respective mark. This analysis does not consider the type of purchaser or the furniture itself. Because Applicant's goods comprise parts or partitions that are assembled and configured *into* furniture, the nature of the furniture is distinct as well as the type of relevant purchaser seeking to arrange and assemble such parts and partitions. In contrast, Registrant's goods are described as "office furniture." Such furniture is not often assembled or configured to function as office furniture *per se*; such furniture is not ordinarily manufactured from corrugated fibreboard, plastic, steel, or compression board. The purchasers of each good are distinct considering the unique features of each type of good associated with the respective mark. The goods of each party are not closely related; therefore, there is no likelihood of confusion between the trademarks.

Because the products themselves and the relevant purchasers are distinct and because the marks will have different impacts on the different groups that consist of the "relevant public," the marks present different commercial impressions and will not move in the same channels of trade.

It is noted that the Examining Attorney stated that there are no other issues requiring attention prior to registration. It is, therefore, believed that this application is entitled to registration, and prompt publication. Favorable action is therefore requested.

Respectfully submitted,



Kristen Fjeldstad
John W. Kepler, III
Attorneys for Applicant
Suelthaus & Walsh P.C.
7733 Forsyth Blvd., 12th Floor
Clayton, Missouri 63105
Telephone: (314) 727-7676
Facsimile: (314) 727-7166



TRADEMARK EXHIBIT A
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TRADEMARK EXAMINING ATTY: JOHN M. GARTNER

development. [ECHO + Greek *lalia*, talk] **-ech'o-la'lic** (-lik) *adj.*

'o-lō-kā'shan *n.* 1. A sensory system as bats and dolphins, in which usually emitted and their echoes interpreted at distance of objects. 2. Electronics. A location of objects by emitting sound waves reflected back to the sender by the angling. **-ech'o-lo-cate'** *v.*

device for measuring depth of water by down from the surface and recording the as from the bottom.

in which the final words or syllables of a ed as a response, often with an im-

'ras *n., pl. -rus-es.* Microbiology. viruses of the family Picornaviridae. al tract and associated with various ningitis, mild respiratory infections, and ms. [enteric] cytopathogenic] (human.

1543. German Roman Catholic theolo- forms of Martin Luther and procla- l that declared Luther a heretic (1520). or **Eck-artd** (ēk'härt', -ärt'), b- ister Eckhart." 1260?–1327? Germa- e founder of mysticism in Germany. mce. Emitter-coupled logic.

n. An elongated pastry filled with ou- id usually icing with chocolate. [French, lightning, from *esclairer*, to light up riäre, from Latin *exclārāre*: *ex-*, inter- rus, clear; see **kela-** in Appendix.] i-klār-sēs-mān') *n.* A clarification; a- from Old French *esclarir*, *esclaris*; *a-* **exclārīre*, variant of **exclārāre*, see

'sé-a *n.* Coma and convulsions during mancy, characterized by edema, hyper- [New Latin, from Greek *eklampas*, pain, to shine forth: *ek-*, out; see **ecto-** **e-damp'tic** (-tik) *adj.*

1. Great brilliance, as of performance picuous success. 3. Great acclaim. Notoriety; scandal. [French, brilliance, dinter, from *esclater*, to burst out, *spl-* origin.]

lj. 1. Selecting or employing individuals f sources, systems, or styles: an eclect approach to managing the economy. elements from a variety of sources: an eclectic collection of artists, writers diers on reserve duty" (Curtis Wilke) follows an eclectic method. [Greek *eklektos*, selected, from *eklegein*, to select gein, to gather; see **leg-** in Appendix]

'ta-siz'am *n.* An eclectic system.

.a. The partial or complete obscuration, of one celestial body by another, such that such an obscuration obscures dimming or cutting off of light or disuse; a decline: "A composer, r his death and never regains popular ful or humiliating end; a downfall. Helped bring about the eclipse of the s tr. *v.* **e-clipsed**, **e-clips-ing**, **e-clips-** use of. **b.** To obscure; darken. **2.a.** Importance, fame, or reputation. **b.** standing performance that eclipsed English, from Old French, from Latin *ex-*, out; see **ecto-** in Appendix. Dull or colorless plumage that acquires at the end of the breeding s-

klip'sing *n.* A binary star whose each other, thereby causing a reg- Also called eclipsing variable star.

1. The intersection plane of the earth here, along which the sun appears earth. 2. A great circle inscribed t an approximate angle of 23°27' to the apparent motion of the sun in a year. [Middle English *ecliptik*, *ē-* *līptika*, ecliptic (line), from Latin *ē-* Greek *ekleiptikos*, from *ekleipein*, to leave; see **leik-** in Appendix]

n. A pastoral poem, usually in sheepherders. [Middle English *ē-* Greek *eklogē*, selection, from *eklegein*, to select; see **leik-** in Appendix]

e-clo-sion (i-klō'zhən) *n.* The emergence of an adult insect from a pupal case or an insect larva from an egg. [French *éclosion*, from *éclore*, to open, from Old French, from Vulgar Latin **exclaudere*, to shut out: Latin *ex-*, + Latin *claudere*, to shut.]

ECM *abbr.* European Common Market.

eco- *pref.* Ecology; ecological; ecosystem. [From *ECOLOGY*.]

ec-o-ca-tas-tro-phe (ēk'ō-kā-tās'tra-fē, ē'kō-) *n.* A large-scale disruption of the balance of nature, usually as a result of human intervention.

ec-o-cide (ēk'ō-sid', ē'kō-) *n.* Heedless or deliberate destruction of the natural environment, as by pollutants or an act of war.

ec-o-freak (ēk'ō-frēk', ē'kō-) *n.* Slang. An environmentalist considered to be overly zealous.

ecol. *abbr.* 1. Ecology. 2. Ecological.

E.co-li (ē kō'li) *n.* A bacillus (*Escherichia coli*) normally found in the human gastrointestinal tract and existing as numerous strains, some of which are responsible for diarrheal diseases. Other strains have been used experimentally in molecular biology. New Latin *Escherichia coli*: after Theodor Escherich (1857–1911), German physician + Latin *coli*, genitive of *colon*; see **CO-** in Appendix.]

e-col-o-gy (i-kōl'ō-jē) *n., pl. -gies.* *Abbr. ecol.* 1. *a.* The science of the relationships between organisms and their environments. Also called *bionomics*. *b.* The relationship between organisms and their environment. 2. The branch of sociology that is concerned with studying the relationships between human groups and their physical and social environments. Also called *human ecology*. 3. The study of the detrimental effects of modern civilization on the environment, with a view toward prevention or reversal through conservation. Also called *human ecology*. [German *Ökologie*: Greek *oikos*, house; see **weik-** in Appendix + German *-logie*, study (from Greek *-logia*, *-logy*).] **-ec'o-log'i-cal** (ēk'ā-lōj'i-kāl, ē'kā-) **ec'o-log'ic** (-ik) *adj.* **-ec'o-log'i-cal-ly** *adv.* **-e-col'o-gist** *n.*

econ. *abbr.* Economics; economist; economy.

e-con-o-met-rics (i-kōn'a-mēt'riks) *n.* (used with a *sing. verb*). Application of mathematical and statistical techniques to economics in the study of problems, the analysis of data, and the development and testing of theories and models. [ECONOMICS + **-METRICS**.] **-e-con'o-met'ric, e-con'o-met'ri-cal** *adj.* **-e-con'o-met'ri-cal-ly** *adv.* **-e-con'o-met'ri-cian** (-mī-trish'ən), **e-con'o-met'rist** *n.*

ec-o-nom-ic (ēk'ā-nōm'ik, ē'kā-) *adj.* 1. *a.* Of or relating to the production, development, and management of material wealth, as of a country, household, or business enterprise. *b.* Of or relating to an economy: a period of sustained economic growth. 2. Of or relating to the science of economics: new economic theories regarding the effects of deficit spending. 3. Of or relating to the practical necessities of life; material: wrote the book primarily for economic reasons. 4. *a.* Financially rewarding; economical: It was no longer economic to keep the manufacturing facilities open. *b.* Efficient; economical: an economic use of home heating oil.

ec-o-nom-i-cal (ēk'ā-nōm'i-kāl, ē'kā-) *adj.* 1. Prudent and thrifty in management; not wasteful or extravagant. See Synonyms at **sparing**. 2. Intended to save money, as by efficient operation or elimination of unnecessary features: economic: a modern, economical heating system; an economical approach to control of corporate growth. **-ec'o-nom'i-cal-ly** *adv.*

economic rent *n.* See **rent** (sense 3).

ec-o-nom-ics (ēk'ā-nōm'iks, ē'kā-) *n.* *Abbr. econ.* 1. (used with a *sing. verb*). The social science that deals with the production, distribution, and consumption of goods and services and with the theory and management of economies or economic systems. 2. (used with a *sing. or pl. verb*). Economic matters, especially relevant financial considerations: "Economics are slowly killing the family farm" (Christian Science Monitor).

e-con-o-mist (i-kōn'ə-mist) *n.* *Abbr. econ.* 1. A specialist in economics. 2. Archaic. An economical person.

e-con-o-mize (i-kōn'ə-mīz') *v.* **-mized**, **-miz-ing**, **-miz-es**. **-intr.** 1. To practice economy, as by avoiding waste or reducing expenditures. 2. To make economical use of something: "The best that can be said for this method is that it economizes on thought" (Christopher Hitchens). **-tr.** To use or manage with thrift; the need to economize scarce resources. **-e-con'o-miz'er** *n.*

e-con-o-my (i-kōn'ə-mē) *n., pl. -mies.* *Abbr. econ.* 1. *a.* Careful, thrifty management of resources, such as money, materials, or labor: learned to practice economy in making out the household budget. *b.* An example or result of such management; a saving. 2. *a.* The system or range of economic activity in a country, region, or community: Effects of inflation were felt at every level of the economy. *b.* A specific type of economic system: an industrial economy; a planned economy. 3. An order, functional arrangement of parts; an organized system: "the set that there is a moral economy in the world, that good is rewarded and evil is punished" (George F. Will). 4. Efficient, sparing, conservative use; wrote with an economy of language; a well-organized group that worked with an economy of effort. 5. Economy class. 6. Theology. The method of God's government of a activity within the world. **-economy** *adj.* Economical or inclined to buy or use: an economy car; an economy motel. [Middle English *yeconomye*, management of a household, from Latin *oikonomia*, from Greek *oikonomia*, from *oikonomos*, one who manages a household: *oikos*, house; see **weik-** in Appendix + *nemein*, to allot, manage; see **nem-** in Appendix.]

WORD HISTORY: Managing an economy has at least an etymological justification. The word *economy* can probably be traced back to the Greek word *oikonomos*, "one who manages a household," derived from *oikos*, "house," and *nemein*, "to manage." From *oikonomos* was derived *oikonomia*, which had not only the sense "management of a household or family" but also senses such as "thrift," "direction," "administration," "arrangement," and "public revenue of a state." The first recorded sense of our word *economy*, found in a work possibly composed in 1440, is "the management of economic affairs," in this case, of a monastery. *Economy* is later recorded in other senses shared by *oikonomia* in Greek, including "thrift" and "administration." What is probably our most frequently used current sense, "the economic system of a country or an area," seems not to have developed until the 19th or 20th century.

economy class *n.* The least expensive class of accommodations, especially on an airplane.

ec-o-phys-i-ol-o-gy (ēk'ō-fiz'ē-ōl'ō-jē, ē'kō-) *n.* The study of the interrelationship between an organism's physical functioning and its environment.

ē-cōr-ché (ā'kōr-shā') *n.* An anatomical representation of the body or a part of the body with the skin removed so as to display the musculature. [French, from past participle of *ēcorcher*, to flay, from Latin *excorticāre*: *ex-*, off, away; see **EX-** + *cortex*, *cortic-*, bark, skin; see **CORTEX**.]

ec-o-spe-cies (ēk'ō-spē'shēz, -sēz, ē'kō-) *n., pl. ecospecies.* A taxonomic species considered in terms of its ecological characteristics and usually including several interbreeding ecotypes.

ec-o-sphere (ēk'ō-sfir', ē'kō-) *n.* The regions of the universe, especially on the earth, that are capable of supporting life; the biosphere.

ec-o-sys-tem (ēk'ō-sis'təm, ē'kō-) *n.* An ecological community together with its environment, functioning as a unit.

ec-o-tone (ēk'ā-tōn', ē'kā-) *n.* A transitional zone between two communities containing the characteristic species of each. [ECO- + Greek *tonos*, tension, tone; see **TONE**.]

ec-o-type (ēk'ā-tīp', ē'kā-) *n.* The smallest taxonomic subdivision of an ecosystem, consisting of populations adapted to a particular set of environmental conditions. The populations are infertile with other ecotypes of the same ecosystem. **-ec'o-ty-pic** (-tīp'ik) *adj.*

ec-ru (ēk'rōō, ā'krōō) *n.* Color. A grayish to pale yellow or light grayish-yellowish brown. [French *écru*, raw, unbleached, from Old French *escru*: *es-*, intensive pref. (from Latin *ex-*; see **EX-**) + *cru*, raw (from Latin *crūdus*; see **kreua-** in Appendix).]

ec-sta-sy (ēk'sta-sē) *n., pl. -sies.* 1. Intense joy or delight. 2. A state of emotion so intense that one is carried beyond rational thought and self-control: an ecstasy of rage. 3. The trance, frenzy, or rapture associated with mystic or prophetic exaltation. [Middle English *extasie*, from Old French, from Late Latin *extasis*, terror, from Greek *ekstasis*, astonishment, distraction, from *ekistanai*, to displace, derange: *ex-*, out; see **EXO-** + *histanai*, to place; see **stā-** in Appendix.]

SYNONYMS: *ecstasy, rapture, transport, exaltation.* These nouns all refer to a state of elated bliss. In its original sense *ecstasy* denoted a trance-like condition marked by loss of orientation toward rational experience and by concentration on a single emotion; now it usually means intense delight: "To burn always with this hard, gemlike flame, to maintain this ecstasy, is success in life" (Walter Pater). *Rapture* originally meant a being caught up in an emotional state, typically involuntary and uncontrollable. In current usage *rapture*, like *ecstasy*, simply means great joy: "Oliver would sit . . . listening to the sweet music, in a perfect rapture" (Charles Dickens). *Transport* is the state of being carried away by strong emotion: "Surprised by joy—impatient as the Wind! turned to share the transport" (William Wordsworth). *Exaltation* is a feeling or condition of elevated, often excessively passionate emotion: "There are men in the world who derive as stern an exaltation from the proximity of disaster and ruin, as others from success" (Winston S. Churchill).

ec-stat-ic (ēk-stāt'ik) *adj.* 1. Marked by or expressing ecstasy. 2. Being in a state of ecstasy; enraptured. [French *extatique*, from Greek *ekstatis*, from *ekstasis*, distraction. See **ECSTASY**.] **-ec-stat'i-cal-ly** *adv.*

ECT *abbr.* Electroconvulsive therapy.

ecto- *pref.* Outer; external; ectoparasite. [Greek *ekto-*, from *ektos*, outside, from *ek*, *ek-*, out. See **eghs** in Appendix.]

TRADEMARK EXHIBIT B

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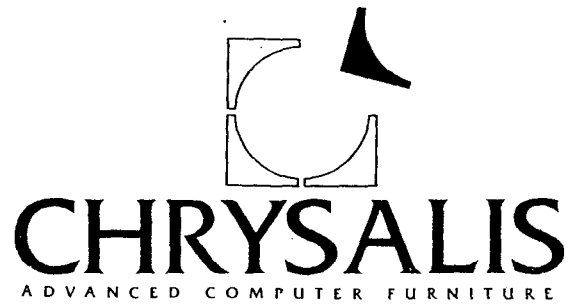
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pathogenic microorganisms do.

ec-to-mere (ēk'tā-mīr') *n.* Any of the blastomeres from which the ectoderm develops. **-ec'to-mer'ic** (-mīr'ik, -mēr'-) *adj.*

ec-to-morph (ēk'tā-mōrf') *n.* An individual having a lean,

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dictionary)



TRADEMARK EXHIBIT C
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of	:	IN THE UNITED STATES
Delta Design Development Limited	:	PATENT AND TRADEMARK OFFICE
	:	
Serial No.: 75/925,999	:	TRADEMARK LAW OFFICE 102
	:	
Filed: February 24, 2000	:	St. Louis, Missouri
	:	
For: ECOPOD	:	August 28, 2001
	:	
Trademark Examining Attorney	:	
John M. Gartner	:	

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August 28, 2001